



GAU-1773

PATENT

**IN THE UNITED STATES PATENT
AND TRADEMARK OFFICE**

Applicant: Michael E. Rakauskas) I hereby certify that this paper is being
Serial No.: 09/309,130) deposited with the United States Postal
Filed: May 10, 1999) Service as first class mail, postage prepaid
Title: LOW PRESSURE) in an envelope addressed to:
) Commissioner for Patents, Washington,
) MELAMINE/VENEER PANEL) D.C. 20231 on May 30, 2001.
Group Art Unit: 1773)
Examiner: Kevin R. Kruer)
Attorney Docket #: 28572/32531A)


James P. Zeller
Reg. No. 28,491
Attorney for Applicant

AMENDMENT "C"

Commissioner for Patents
Washington, D.C. 20231

Sir:

This paper is being presented in response to an official action dated March 14, 2001,
wherein:

- (A) claims 14 and 17-54 are pending;
 - (B) all of the pending claims have been rejected under 35 U.S.C. § 112, ¶ 1;
 - (C) claims 14, 17, 24-29, 36-41, and 48-54 have been rejected under 35 U.S.C. § 103(a) as obvious over Snyder U.S. Patent No. 6,004,648 (the “Snyder patent”) in view of McClain U.S. Patent No. 1,299,747 (the “McClain patent”);
 - (D) claims 23, 35, and 37 have been rejected under section 103(a) as being obvious over the Snyder patent in view of the McClain patent as applied in (C) above, and further in view of Guyette U.S. Patent No. 5,425,986 (the “Guyette patent”);
 - (E) claims 18, 30, and 42 have been rejected under section 103(a) as being obvious over the Snyder patent in view of the McClain patent as applied in (C) above, and further in view of alleged admissions by the applicant;

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- (F) claims 22, 34, and 46 have been rejected under section 103(a) as being obvious over the Snyder patent in view of the McClain patent and the applicant's alleged admissions as applied in (E) above, and further in view of the Guyette patent; and
- (G) claims 19-21, 31-33, and 43-45 have been rejected under section 103(a) as being obvious over the Snyder patent in view of the McClain patent and the applicant's alleged admissions as applied in (F) above, and further in view of Brooker *et al.* U.S. Patent No. 5,723,221 (the "Brooker patent").

No prior art basis was provided for the rejection of claim 47.

Reconsideration and withdrawal of the rejections are requested.

I. The 35 U.S.C. § 112, ¶ 1 Rejections Are Traversed

The patentability arguments set forth in "Amendment 'B'" filed November 30, 2000, are applicable here and, therefore, are incorporated herein by reference.

Pages 6-8 of "Amendment 'B'" set forth sufficient arguments to rebut the examiner's erroneous characterizations of alleged admissions by the applicant. This passage of "Amendment 'B,'" specifically the top of page 8 thereof, provides clear arguments regarding the inclusion of the claim term "unwarped" and identifies support in the specification for that claim term.

The subject matter of the claim need not be described literally (*i.e.*, using the same terms or *in haec verba*) in order for the patent disclosure to satisfy the description requirement under 35 U.S.C. § 112, ¶ 1. *See*, M.P.E.P. § 2163.02, Rev. 1 (Feb. 2000). The instant official action does not acknowledge the passages at pages 6-8 of "Amendment 'B.'" Furthermore, the examiner has failed to carry his "initial burden of presenting evidence or reasoning to explain why persons skilled in the art would not recognize in the disclosure a description of the invention defined by the claims." M.P.E.P. § 2163.04 (II), Rev. 1 (Feb. 2000). Consequently no further meaningful response can be presented to the rejection of the claims under §112, ¶ 1.

To the extent that the examiner is suggesting that removal of the offending language will obviate the rejections under §112, ¶ 1, an indication to that effect is respectfully requested.

II. The 35 U.S.C. § 103(a) Rejections Are Traversed

Claims 14, 17-46 and 48-54 have been rejected over the Snyder patent in combination with art already of record and alleged admissions in the application. The requirements for establishing a *prima facie* case of obviousness have been set forth in prior responses to official actions in this application and, for the sake of brevity, will not be restated here. *See e.g.*, "Amendment 'B,'" filed November 30, 2000, pages 8 and 9.

Central to all of the section 103(a) rejections is the Snyder patent. The Snyder patent is presumptive prior art under 35 U.S.C. § 102(e) because it issued on December 21, 1999, from an application filed on February 7, 1997. The present application was filed on May 10, 1999, and is a division of U.S. Serial No. 08/844,734 filed April 21, 1997 (now U.S. Patent No. 5,925,211).

The Snyder patent is not available as a prior art reference to be used against the pending claims because the claimed invention of this application was reduced to practice before the February 7, 1997, filing date of the Snyder patent.

Submitted herewith is a declaration under 37 C.F.R. § 1.131 of the applicant, Michael E. Rakauskus, which sets forth facts which establish a reduction to practice prior to February 7, 1997.. Specifically, the declaration sets forth evidence establishing that the invention recited in independent claims 14, 17, 37, and 51 was reduced to practice prior to February 7, 1997. Consequently, the Snyder patent is not an available prior art reference against any of the rejected claims. Because the Snyder patent is not an available prior art reference against the pending claims, all of the 103(a) rejections are obviated.

III. Claim 47 Was Not Rejected Over Prior Art

Claim 47 was not rejected over any prior art. Consequently, an indication that claim 47 is allowable over the art is respectfully solicited. Alternatively, if claim 47 is rejected in a further official action, that further official action cannot properly be made final.

CONCLUSION

In view of the foregoing, reconsideration and withdrawal of the rejections, and allowance of all pending claims 14 and 17-54 are requested.

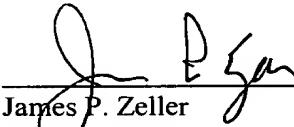
Should the examiner wish to discuss the foregoing, or any matter of form or procedure in an effort to advance this application to allowance, he is urged to contact the undersigned attorney.

Respectfully submitted,

MARSHALL, O'TOOLE, GERSTEIN,
MURRAY & BORUN

May 30, 2001

By:



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